

2013 DRAFTING REQUEST

Bill

Received: 10/9/2012 Received By: jkreye
Wanted: As time permits Same as LRB:
For: Administration-Budget By/Representing: Ley
May Contact: Drafter: jkreye
Subject: Tax, Other - miscellaneous Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

DOA:.....Ley, BB0081 -

Topic:

Refund setoff hierarchy for state debt collection program and tax refund intercept program

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------------|---------------------|------------------------|----------------|-----------------------|-----------------|-----------------|
| /? | jkreye 10/29/2012 | | | _____ | | | |
| /P1 | jkreye 1/15/2013 | jdyer 10/30/2012 | rschluet 10/30/2012 | _____ | srose 10/30/2012 | | State S&L |
| /P2 | jkreye 1/23/2013 | jdyer 1/15/2013 | rschluet 1/15/2013 | _____ | sbasford 1/15/2013 | | State S&L |
| /P3 | | jdyer | rschluet | _____ | sbasford | | State |

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
| | | 1/23/2013 | 1/23/2013 | _____ | 1/23/2013 | | S&L |

FE Sent For:

<END>

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|--------------|----------------------|---------------------|------------------------|----------------|-----------------------|-----------------|-----------------|
| /? | jkreye 10/29/2012 | P3 1/23 jld | | | | | |
| /P1 | jkreye 1/15/2013 | jdyer 10/30/2012 | rschluet 10/30/2012 | | srose 10/30/2012 | | State S&L |
| /P2 | | jdyer 1/15/2013 | rschluet 1/15/2013 | | sbasford 1/15/2013 | | State S&L |

JK

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2013 DRAFTING REQUEST

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Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov

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| /? | jkreye 10/29/2012 | P2/15 jld | | _____ _____ | | | |
| /P1 | | jdye 10/30/2012 | 10/30/2012 | _____ _____ | srose 10/30/2012 | | State S&L |

FE Sent For:

1/15
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1/15

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Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov

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Refund setoff hierarchy for state debt collection program and tax refund intercept program

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| /? | jkreye | P1 10/30 jlw | | | | | |
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FE Sent For:

<END>

Kreye, Joseph

0276

From: Hanaman, Cathlene
Sent: Monday, October 08, 2012 8:46 AM
To: Shovers, Marc; Kreye, Joseph
Subject: FW: Statutory Language Drafting Request

From: Emily.Ley@wisconsin.gov [mailto:Emily.Ley@wisconsin.gov]
Sent: Tuesday, October 02, 2012 2:31 PM
To: Hanaman, Cathlene
Cc: Frederick, Caitlin - DOA; Ley, Emily A - DOA; Thornton, Scott - DOA
Subject: Statutory Language Drafting Request

Biennial Budget: 2013-15

DOA Tracking Code: BB0081

Topic: Refund Setoff Hierarchy for State Debt Collection Program and Tax Refund Intercept Program

SBO Team: TLGED

SBO Analyst: Ley, Emily - DOA
Phone: 608-266-7597
E-mail: Emily.Ley@wisconsin.gov

Agency Acronym: DOR

Agency Number: 566

Priority: Medium

Intent:

Sec. 71.93(3), Wis. Stats., specifies the hierarchy for applying refunds to other state agency debt through the Tax Refund Intercept Program (TRIP). Sec. 71.93(8)(b)6, Wis. Stats., specifies the payment hierarchy for debts collected through Statewide Debt Collection (SDC).

Amend ss. 71.93(3)(a) and 71.93(8)(b)6, Wis. Stats., to create one hierarchy for all debts certified for refund setoff as follows:

- Department of Revenue debt
- Child support debt certified by the Department of Children and Families
- State agency debt for Statewide Debt Collection (SDC) certified under 71.93(8)(b)6
- Local government debt for SDC collection certified under 71.93(8)(b)6
- State agency debt certified for refund intercept only under 71.93(2)
- Local government debt certified for refund intercept only under 71.935(2)
- Federal tax debt certified for refund intercept under 73.03(52a)
- Tribal debt certified for refund intercept under 73.03(52n)
- Other states' tax debt certified for refund intercept under 73.03(52m)

This proposal clarifies the setoff hierarchy so debts submitted under Statewide Debt Collection (SDC) in section 71.93(8)(b)6, Wis. Stats., will be collected before debts submitted under TRIP for other state agencies in section 71.93(2), Wis. Stats., and TRIP for municipalities and counties in section 71.935, Wis. Stats.

Attachments: False

Please send completed drafts to statlanguage@wisapps.wi.gov

Kreye, Joseph

From: Ley, Emily A - DOA <Emily.Ley@wisconsin.gov>
Sent: Wednesday, October 24, 2012 2:42 PM
To: Kreye, Joseph
Subject: RE: BB0081-refund setoff hierarchy

Update on the refund setoff hierarchy:

The general order for the offset hierarchy is as follows:

1. DOR
2. State agencies, including child support
3. Counties or municipalities
4. Federal government
5. Tribal governments
6. Other states

If two entities are on the same rung (such as the courts, Legislature, and authorities, which all fall on #2), the offset is in order of when the debts were certified.

"71.93(8)(b)6. 6. If the debtor owes debt to the department and to other entities, payments shall first apply to debts owed to the department, then to the state agencies, the courts, the legislature, and authorities, as defined in s. 16.41 (4), in the order in which the debts were referred to the department, and then to local units of government in the order in which the debts were referred to the department."

Since there is not a more specific definition of "courts" in this section of statute, we treat all courts the same.

From: Kreye, Joseph [<mailto:Joseph.Kreye@legis.wisconsin.gov>]
Sent: Thursday, October 18, 2012 4:06 PM
To: Ley, Emily A - DOA
Subject: RE: BB0081-refund setoff hierarchy

You're welcome.

From: Ley, Emily A - DOA [<mailto:Emily.Ley@wisconsin.gov>]
Sent: Thursday, October 18, 2012 3:57 PM
To: Kreye, Joseph
Subject: RE: BB0081-refund setoff hierarchy

Hi Joe,
I'll check and get back to you. Thanks for your hard work and patience on these language requests.

Emily

From: Kreye, Joseph [<mailto:Joseph.Kreye@legis.wisconsin.gov>]
Sent: Thursday, October 18, 2012 3:55 PM
To: Ley, Emily A - DOA
Subject: BB0081-refund setoff hierarchy

Emily,

Under s. 71.93 (8) (b) 2., the courts, the legislature, authorities, and local units of government can enter into agreements with DOR for debt collections/refund setoffs.

The hierarchy in the instructions do not include the courts, the legislature, or authorities. Should I assume that the debts of these entities would be collected after all the others or should they come before federal tax debt, tribal debt, and other state's tax debt?

Joe

Joseph Kreye

Senior Legislative Attorney

Legislative Reference Bureau

608 266-2263



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0276/P1

JK: A:...

JK

DOA:.....Ley, BB0081 – Refund setoff hierarchy for state debt collection program and tax refund intercept program

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

in 10-29-12

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AN ACT ...; relating to: the budget. ✓

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Analysis by the Legislative Reference Bureau

TAXATION ✓

OTHER TAXATION ✓

Under current law, a state agency may certify to DOR ✓ debts owed to the state agency. DOR then collects the debt by subtracting the amount from any state tax refund owed to the debtor. If more than one certified debt exists for any debtor, DOR, generally, collects the debts in the order in which they were certified. ✓ Under current law, counties and municipalities may also certify debt to DOR so that DOR may collect the debt from the debtor's state tax refund. In addition, an individual may enter into agreement with DOR to pay debts owed to a state agency, the courts, the legislature, an authority, or a local unit of government. ✓

Under current law, DOR may enter into agreements with the Internal Revenue Service to collect federal tax obligations from state tax refunds, with other states to collect their tax obligations from state tax refunds, and with federally recognized tribes located in this state to collect tribal obligations from state tax refunds. ✓

This bill provides that debts certified to DOR ✓ are collected in the following order:

1. Child support obligations certified by DCF. ✓
2. State agency debt collected pursuant to an agreement with an individual taxpayer. ✓

3. ✓ Debt certified by the courts, the legislature, or authorities.
4. ✓ Debt owed to local units of government collected pursuant to an agreement with an individual taxpayer.
5. State agency debt, other than child support obligations. ✓
6. Debt certified by counties and municipalities. ✓
7. Federal tax obligations. ✓
8. Tribal obligations. ✓
9. Tax obligations of other states. ✓ ✓

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 71.93 (3) (a) of the statutes is renumbered[✓] 71.93 (3) (a) (intro.) and
2 amended to read:

3 71.93 (3) (a) ^(intro.) The department of revenue shall setoff any debt or other amount
4 owed to the department, regardless of the origin of the debt or of the amount, its
5 nature or its date. If after the setoff there remains a refund in excess of \$10, the
6 department shall set off the remaining refund against certified debts of other state
7 agencies. entities in the following order: ✓

8 1. Child support debt certified by the department of children and families
9 under sub. (2).

10 2. State agency debt collected pursuant to an agreement under sub. (8).

11 3. Debt owed to the courts, the legislature, or an authority, as defined in s. 16.41
12 (4), collected pursuant to an agreement under sub. (8).

13 4. Debt owed to local units of government collected pursuant to an agreement
14 under sub. (8).

15 5. Debt certified under sub. (2), other than child support debt certified by the
16 department of children and families.

17 6. Debt certified under s. 71.935 (2).

1 7. Federal tax obligations collected pursuant to an agreement under s. 73.03

2 (52) (a).

3 8. Tribal obligations collected pursuant to an agreement under s. 73.03 (52n).

4 9. Tax obligations of other states collected pursuant to an agreement under s.
5 73.03 (52m).

6 (am) ✓ If more than one certified debt exists for any debtor for the same type of
7 debt specified under par. (a) 1. to 9. ✓, the refund shall be first set off against the
8 earliest debt certified, ~~except that no child support or spousal support obligation~~
9 ~~submitted by an agency of another state may be set off until all debts owed to and~~
10 ~~certified by state agencies of this state have been set off.~~ ✓ When all debts have been
11 satisfied, any remaining refund shall be refunded to the debtor by the department.
12 Any legal action contesting a setoff under this paragraph shall be brought against
13 the state agency entity ✓ that certified the debt under sub. (2).

History: 1987 a. 312; 1989 a. 31; 1993 a. 437; 1995 a. 27 ss. 3427 to 3429, 9126 (19), 9130 (4); 1995 a. 404; 1997 a. 3, 27; 2001 a. 16; 2003 a. 33; 2005 a. 25, 59, 254; 2007 a. 20 ss. 2141 to 2142, 9121 (6) (a); 2007 a. 97, 200; 2009 a. 28.

14 **SECTION 2.** 71.93 (8) (b) 6. of the statutes is amended to read:

15 71.93 (8) (b) 6. If the debtor owes debt to the department and to other entities,
16 payments shall first apply to debts owed to the department, then to the state
17 agencies, ~~the courts, the legislature, and authorities, as defined in s. 16.41 (4), in the~~
18 ~~order in which the debts were referred to the department, and then to local units of~~
19 ~~government in the order in which the debts were referred to the department other~~
20 entities in the order determined under sub. (3) (a). ✓

History: 1987 a. 312; 1989 a. 31; 1993 a. 437; 1995 a. 27 ss. 3427 to 3429, 9126 (19), 9130 (4); 1995 a. 404; 1997 a. 3, 27; 2001 a. 16; 2003 a. 33; 2005 a. 25, 59, 254; 2007 a. 20 ss. 2141 to 2142, 9121 (6) (a); 2007 a. 97, 200; 2009 a. 28.

(END)

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(end ins)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0276/P1

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DOA:.....Ley, BB0081 – Refund setoff hierarchy for state debt collection program and tax refund intercept program

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

m 1-15-13

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AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

Under current law, a state agency may certify to DOR debts owed to the state agency. DOR then collects the debt by subtracting the amount from any state tax refund owed to the debtor. If more than one certified debt exists for any debtor, DOR, generally, collects the debts in the order in which they were certified. Under current law, counties and municipalities may also certify debt to DOR so that DOR may collect the debt from the debtor's state tax refund. In addition, an individual may enter into agreement with DOR to pay debts owed to a state agency, the courts, the legislature, an authority, or a local unit of government.

Under current law, DOR may enter into agreements with the Internal Revenue Service to collect federal tax obligations from state tax refunds, with other states to collect their tax obligations from state tax refunds, and with federally recognized tribes located in this state to collect tribal obligations from state tax refunds.

This bill provides that debts certified to DOR are collected in the following order:

1. Child support obligations certified by DCF.
2. State agency debt collected pursuant to an agreement with an individual taxpayer.

3. Debt certified by the courts, the legislature, or authorities.
4. Debt owed to local units of government collected pursuant to an agreement with an individual taxpayer.
5. State agency debt, other than child support obligations.
6. Debt certified by counties and municipalities.
7. Federal tax obligations.
8. Tribal obligations.
9. Tax obligations of other states.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 71.93 (3) (a) of the statutes is renumbered 71.93 (3) (a) (intro.) and
2 amended to read:

3 71.93 (3) (a) (intro.) The department of revenue shall setoff any debt or other
4 amount owed to the department, regardless of the origin of the debt or of the amount,
5 its nature or its date. If after the setoff there remains a refund in excess of \$10, the
6 department shall set off the remaining refund against certified debts of other state
7 agencies. entities in the following order:

8 ~~(am)~~ If more than one certified debt exists for any debtor for the same type of
9 debt specified under par. (a) 1. to 9., the refund shall be first set off against the
10 earliest debt certified, ~~except that no child support or spousal support obligation~~
11 ~~submitted by an agency of another state may be set off until all debts owed to and~~
12 ~~certified by state agencies of this state have been set off.~~ When all debts have been
13 satisfied, any remaining refund shall be refunded to the debtor by the department.
14 Any legal action contesting a setoff under this paragraph shall be brought against
15 the state agency entity that certified the debt under sub. (2).

16 SECTION 2. 71.93 (3) (a) 1. to 9. of the statutes are created to read:

71.93 (3) (a) 1. Child support debt certified by the department of children and families under sub. (2).

2. State agency debt collected pursuant to an agreement under sub. (8).

3. Debt owed to the courts, the legislature, or an authority, as defined in s. 16.41 collected pursuant to an agreement under sub. (8).

4. Debt owed to local units of government collected pursuant to an agreement under sub. (8).

5. Debt certified under sub. (2), other than child support debt certified by the department of children and families.

6. Debt certified under s. 71.935 (2).

7. Federal tax obligations collected pursuant to an agreement under s. 73.03
(52) (a).

8. Tribal obligations collected pursuant to an agreement under s. 73.03 (52n).

9. Tax obligations of other states collected pursuant to an agreement under s. 73.03 (52m).

SECTION 3. 71.93 (8) (b) 6. of the statutes is amended to read:

71.93 (8) (b) 6. If the debtor owes debt to the department and to other entities, payments shall first apply to debts owed to the department, then to the state agencies, the courts, the legislature, and authorities, as defined in s. 16.41 (4), in the order in which the debts were referred to the department, and then to local units of government in the order in which the debts were referred to the department other entities in the order determined under sub. (3) (a).

(END)

Invent 3-22

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0276/P2ins
JK:jld:rs

Insert 3 - 22

treatment of section 71.93 (8)
(b) 6. of the statutes, the

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SECTION 9437. Effective dates; Revenue.

2

(1) REFUND SETOFFS. The renumbering and amendment of section 71.93 (3) (a)

3

of the statutes, the amendment of section 71.93 (8) (b) 6. of the statutes, and the

4

creation of section 71.93 (3) (a) 1. to 9. of the statutes takes effect on the first day of

5

the 6th month beginning after publication.

(end ins)

Kreye, Joseph

From: Ley, Emily A - DOA <Emily.Ley@wisconsin.gov>
Sent: Tuesday, January 22, 2013 5:13 PM
To: Kreye, Joseph
Subject: FW: Refund setoff hierarchy draft

Hi Joe,

Here is DOR's feedback on LRB 13-0276/P1, Refund setoff hierarchy for state debt collection program and tax refund intercept program. Would it be helpful to see DOR's edits on the LRB analysis section? Please let me know if you have questions or would like to arrange a conference call with DOR.

FYI, the only draft waiting for DOR's feedback is 0790/P1, Transfer certification of business for capital gains deferrals and exclusions from WEDC to DOR; consolidate the subtractions.

Thank you,

Emily

From: Wagner, Michael W - DOR
Sent: Tuesday, January 22, 2013 4:58 PM
To: Ley, Emily A - DOA
Subject: FW: DIN 7029 Refund setoff hierarchy draft

Emily,

Our staff had several corrections to the LRB analysis, but since that ultimately doesn't matter, I won't overload you with that information. However, if you need it for background or other purposes, let me know, and I'll be happy to provide those corrections.

Now on the statutory language...

The main concern that we have is that the current draft put child support collections for other states on an equal playing field with Wisconsin child support debts (which is not part of the policy argument that we provided and was approved at our briefing), and that in the process of doing so, critical references to state authorities were removed, which I don't think is anybody's intent.

Page 2, lines 10-12 are mostly eliminated in LRB 0276/P2. Those lines should stay intact since we don't want to subordinate Wisconsin debts to out-of-state child support debts.

Page 3, line 1: amend as follows: "Wisconsin Child support debt certified..." Again, we want to distinguish between Wisconsin and out-of-state child support debts.

Page 3, line 2: amend as follows, "...pursuant to an agreement, and debt certified by the courts, the legislature, or authorities, as defined in s. 16.41 (4), under sub..."

Page 3, lines 4-5 (item 4): delete the lines. This item is unnecessary with the change listed above.

Page 3, lines 6 and 8: renumber the list to reflect the deletion of item 4.

Page 3, after line 9 add: "5. Child support or spousal support obligation submitted by an agency of another state." Again, this correctly subordinates out-of-state support orders to in-state support orders.

Please let me know if you have any questions.

Regards,

Mike Wagner
Legislative Advisor, Dept. of Revenue
(608) 266-7817

From: Ley, Emily A - DOA
Sent: Wednesday, January 16, 2013 2:32 PM
To: Wagner, Michael W - DOR
Subject: DIN 7029 Refund setoff hierarchy draft

Hi Mike,

Here is LRB's draft of DIN 7029, Refund Setoff Hierarchy. Will you take a look and let me know what you think? Thank you,

Emily Ley
Executive Policy & Budget Analyst
Department of Administration
Division of Executive Budget and Finance
(608)-266-7597
emily.ley@wisconsin.gov

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0276/P2

JK:jld:jf

RMR

DOA:.....Ley, BB0081 - Refund setoff hierarchy for state debt collection program and tax refund intercept program

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

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1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

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Under current law, a state agency may certify to DOR debts owed to the state agency. DOR then collects the debt by subtracting the amount from any state tax refund owed to the debtor. If more than one certified debt exists for any debtor, DOR, generally, collects the debts in the order in which they were certified. Under current law, counties and municipalities may also certify debt to DOR so that DOR may collect the debt from the debtor's state tax refund. In addition, an individual may enter into agreement with DOR to pay debts owed to a state agency, the courts, the legislature, an authority, or a local unit of government.

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This bill provides that debts certified to DOR are collected in the following order: ✓

1. Child support obligations certified by DCF. ✓
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and debt certified by the courts, the legislature, or authorities ✓

- ③ 3. Debt certified by the courts, the legislature, or authorities.
- ④ 4. Debt owed to local units of government collected pursuant to an agreement with an individual taxpayer.
- ⑤ 5. State agency debt, other than child support obligations.
6. Debt certified by counties and municipalities.
7. Federal tax obligations.
8. Tribal obligations.
9. Tax obligations of other states.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

⑤ 5. child support or spousal support obligations submitted by an agency of another state.
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.93 (3) (a) of the statutes is renumbered 71.93 (3) (a) (intro.) and amended to read:

71.93 (3) (a) (intro.) The department of revenue shall setoff any debt or other amount owed to the department, regardless of the origin of the debt or of the amount, its nature or its date. If after the setoff there remains a refund in excess of \$10, the department shall set off the remaining refund against certified debts of other state agencies. entities in the following order:

(am) If more than one certified debt exists for any debtor for the same type of debt specified under par. (a) 1. to 9., the refund shall be first set off against the earliest debt certified, except that no child support or spousal support obligation submitted by an agency of another state may be set off until all debts owed to and certified by state agencies of this state have been set off. When all debts have been satisfied, any remaining refund shall be refunded to the debtor by the department. Any legal action contesting a setoff under this paragraph shall be brought against the state agency entity that certified the debt under sub. (2).

SECTION 2. 71.93 (3) (a) 1. to 9. of the statutes are created to read:

Wisconsin child

71.93 (3) (a) 1. Child support debt certified by the department of children and families under sub. (2).

2. State agency debt collected pursuant to an agreement under sub. (8).

3. Debt owed to the courts, the legislature, or an authority, as defined in s. 16.41 (4), collected pursuant to an agreement under sub. (8).

4. Debt owed to local units of government collected pursuant to an agreement under sub. (8).

5. Debt certified under sub. (2), other than child support debt certified by the department of children and families.

6. Debt certified under s. 71.935 (2).

7. Federal tax obligations collected pursuant to an agreement under s. 73.03 (52) (a).

8. Tribal obligations collected pursuant to an agreement under s. 73.03 (52n).

9. Tax obligations of other states collected pursuant to an agreement under s. 73.03 (52m).

SECTION 3. 71.93 (8) (b) 6. of the statutes is amended to read:

71.93 (8) (b) 6. If the debtor owes debt to the department and to other entities, payments shall first apply to debts owed to the department, then to the state agencies, the courts, the legislature, and authorities, as defined in s. 16.41 (4), in the order in which the debts were referred to the department, and then to local units of government in the order in which the debts were referred to the department other entities in the order determined under sub. (3) (a).

SECTION 9437. Effective dates; Revenue.

(1) REFUND SETOFFS. The treatment of section 71.93 (8) (b) 6. of the statutes, the renumbering and amendment of section 71.93 (3) (a) of the statutes, and the creation

5. child support or spousal support obligations submitted by an agency of another state.

1 creation of section 71.93 (3) (a) 1. to 9. of the statutes take effect on the first day of
2 the 6th month beginning after publication.

3 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0276/P3

JK:jld:rs

DOA:.....Ley, BB0081 – Refund setoff hierarchy for state debt collection program and tax refund intercept program

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

Under current law, a state agency may certify to DOR debts owed to the state agency. DOR then collects the debt by subtracting the amount from any state tax refund owed to the debtor. If more than one certified debt exists for any debtor, DOR, generally, collects the debts in the order in which they were certified. Under current law, counties and municipalities may also certify debt to DOR so that DOR may collect the debt from the debtor's state tax refund. In addition, an individual may enter into agreement with DOR to pay debts owed to a state agency, the courts, the legislature, an authority, or a local unit of government.

Under current law, DOR may enter into agreements with the Internal Revenue Service to collect federal tax obligations from state tax refunds, with other states to collect their tax obligations from state tax refunds, and with federally recognized tribes located in this state to collect tribal obligations from state tax refunds.

This bill provides that debts certified to DOR are collected in the following order:

1. Wisconsin child support obligations certified by DCF.
2. State agency debt collected pursuant to an agreement with an individual taxpayer and debt certified by the courts, the legislature, or authorities.

3. Debt owed to local units of government collected pursuant to an agreement with an individual taxpayer.
4. State agency debt, other than child support obligations.
5. Child support or spousal support obligations submitted by an agency of another state.
6. Debt certified by counties and municipalities.
7. Federal tax obligations.
8. Tribal obligations.
9. Tax obligations of other states.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.93 (3) (a) of the statutes is renumbered 71.93 (3) (a) (intro.) and
2 amended to read:

3 71.93 (3) (a) (intro.) The department of revenue shall setoff any debt or other
4 amount owed to the department, regardless of the origin of the debt or of the amount,
5 its nature or its date. If after the setoff there remains a refund in excess of \$10, the
6 department shall set off the remaining refund against certified debts of other state
7 agencies. entities in the following order:

8 (am) If more than one certified debt exists for any debtor for the same type of
9 debt specified under par. (a) 1. to 9., the refund shall be first set off against the
10 earliest debt certified, except that no child support or spousal support obligation
11 submitted by an agency of another state may be set off until all debts owed to and
12 certified by state agencies of this state have been set off. When all debts have been
13 satisfied, any remaining refund shall be refunded to the debtor by the department.
14 Any legal action contesting a setoff under this paragraph shall be brought against
15 the state agency entity that certified the debt under sub. (2).

16 **SECTION 2.** 71.93 (3) (a) 1. to 9. of the statutes are created to read:

1 71.93 (3) (a) 1. Wisconsin child support debt certified by the department of
2 children and families under sub. (2).

3 2. State agency debt collected pursuant to an agreement under sub. (8) and debt
4 owed to the courts, the legislature, or an authority, as defined in s. 16.41 (4), collected
5 pursuant to an agreement under sub. (8).

6 3. Debt owed to local units of government collected pursuant to an agreement
7 under sub. (8).

8 4. Debt certified under sub. (2), other than child support debt certified by the
9 department of children and families.

10 5. Child support or spousal support obligations submitted by an agency of
11 another state.

12 6. Debt certified under s. 71.935 (2).

13 7. Federal tax obligations collected pursuant to an agreement under s. 73.03
14 (52) (a).

15 8. Tribal obligations collected pursuant to an agreement under s. 73.03 (52n).

16 9. Tax obligations of other states collected pursuant to an agreement under s.
17 73.03 (52m).

18 **SECTION 3.** 71.93 (8) (b) 6. of the statutes is amended to read:

19 71.93 (8) (b) 6. If the debtor owes debt to the department and to other entities,
20 payments shall first apply to debts owed to the department, then to the state
21 agencies, ~~the courts, the legislature, and authorities, as defined in s. 16.41 (4), in the~~
22 ~~order in which the debts were referred to the department, and then to local units of~~
23 ~~government in the order in which the debts were referred to the department~~ other
24 entities in the order determined under sub. (3) (a).

25 **SECTION 9437. Effective dates; Revenue.**

(1) **REFUND SETOFFS.** The treatment of section 71.93 (8) (b) 6. of the statutes, the renumbering and amendment of section 71.93 (3) (a) of the statutes, and the creation of section 71.93 (3) (a) 1. to 9. of the statutes take effect on the first day of the 6th month beginning after publication.

(END)